Divorce and Separation in India

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In India divorce and separation are perceived to be relatively rare events. While quantitative data are lacking, there is a rich multi-disciplinary literature on various aspects of marital stability in India. This article draws on this literature to contextualize the key aspects of marriage and the socio-cultural and legal systems that influence durability of marriages in India. The article then presents estimates of prevalence, trends, and variations in divorce and separation using data from a large nationally representative survey. Finally, using education as a broad measure, the article investigates the impact of social changes on durability of marriages between 1987 and 2007. The findings reveal an upward trend and significant variations in divorce and separation by region, religion, rural and urban residence, and number and sex of children. Marriage among better-educated women is more durable and the difference between less-educated and better-educated women has widened over time.

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Non-marriage and divorce are becoming increasingly common in many parts of Asia. In East Asia, with the exception of China, marriage rates have fallen and divorce rates briefly reached levels as high as those seen in OECD countries (Dommaraju and Jones 2011). In Southeast Asia, too, marital dissolution through divorce or separation is rising (ibid.). In China, where marriage rates have not declined to the levels seen in other East Asian countries, divorce rates have tripled or quadrupled over the last two decades (Lu and Wang 2014). The major exception to this trend in Asia is South Asia, where marriage continues to be nearly universal and relatively early and divorce is relatively uncommon.

In India, the focus of this article, despite wide social changes over the last three decades, marriage is still predominately caste endogamous, universal, and early and involves active participation of family and kin in spouse selection. Although changes have occurred in many aspects of the marriage system including marriage age and spouse selection (Allendorf 2013; Andrist, Banerji, and Desai 2013; Desai and Andrist 2010; Prakash and Singh 2013), these changes have not radically transformed the institution of marriage. While much is known about changes in marriage formation in India, there has been little socio-demographic research on marital dissolution. With the notable exception of Bose and South's (2003) article on son preference and marital dissolution, there has been no major quantitative study on divorce in India.

This article has three broad objectives. First, it presents nationally representative estimates of prevalence, trends, and variations in divorce and separation. Media reports with headlines such as "The great Indian wedding is succumbing to the great Indian divorce,"[1] have proclaimed dramatic increases in divorce and separation in India. These reports are, however, based on partial and incomplete data and non-rigorous analyses. Besides media reports there are scattered ethnographic data that by their nature are not generalizable, and quantitative information on divorce and separation is lacking. The estimates presented here provide a firmer quantitative basis for identifying trends and variations in marital stability by region, religion, family composition, and education.

Second, the article examines how marriage stability is affected by broader changes in the social-cultural milieu and by specific changes in the marriage system. Some of the factors that are responsible for divorce trends in other parts of Asia—such as greater participation of women

in the labor force, increasing incompatibility of gender roles with the status of women, changing demographic contexts, and individualization—are, though to a lesser degree, occurring in India as well. Using educational attainment as a broad measure to capture individual autonomy, independence, economic potential, social status, and wider social changes (Matysiak, Styrc, and Vignoli 2014), the study investigates how these changes have affected marital stability in India.

Third, the article presents a systematic synthesis of key elements of marriage and kinship systems, a pluralistic legal and social structure, and family and cultural norms that influence marital stability in India. The article uses these elements to frame, contextualize, interpret, and discuss the findings of the study. The synthesis draws on literature from multiple disciplines including legal anthropology, social and cultural studies, and family studies.

Marriage and dissolution in India

Sexuality, spouse selection, and marital stability

A key feature of the Indian socio-cultural and marriage system is the strict regulation of sexuality and the proscription of women's sexuality outside marriage (Abraham 2001; Dutta 2011; Still 2010).[2] A woman who engages in pre-marital sex is considered as bringing shame to the family and corrupting the purity of her caste. Family and caste councils, therefore, have assumed the role of regulating women's sexuality (Abraham 2014; Chakravarti 1993). The regulation of sexuality is stricter among groups where consciousness of caste identity is stronger (Abraham 2014; Dube 2001). The concern about sexuality has meant that unmarried daughters are seen as a threat to the existing marriage and social order (Kodoth 2008; Netting 2010). This concern about sexuality, among other factors, has meant that marriage is relatively early and nearly universal.

A second feature of the Indian marriage system that could influence marital stability is the nature of spouse selection. Marriages are typically arranged by parents or other family members (with varying degrees of consent and discussion with children) rather than based on pre-marital dating or relationships[3] (Allendorf 2013; Prakash and Singh 2013). Parents and family play an important role since marriage is seen as affecting the status of the family and lineage (Harlan and Courtright 1995). Although arranged marriages have persisted, the degree of involvement of parents, families, and the young themselves has changed. There is now greater participation and a higher degree of involvement of young men and women in selecting their

own spouses through negotiation with parents and families (Netting 2010; Titzmann 2013). The use of technology in matchmaking through matrimonial websites, while offering the potential to transgress traditional boundaries, seems to have re-entrenched traditional values in spouse selection (Kaur and Dhanda 2013). Even for young men and women choosing their own spouse, there is considerable pressure to choose the "right" person who fits with the dominant patriarchal and parochial norms and caste identities (Abeyasekera 2013; Ahearn 2001).

The shift toward greater choice in partner selection and companionate marriages in which the conjugal power relationship is less hierarchical (Fuller and Narasimhan 2008; Gilbertson 2014) could potentially affect marriage stability. Kishwar (1999), for instance, argues that the stability of arranged marriages is the result of stronger material and emotional support provided by natal family and kin. Such support might promote reconciliation and help to resolve marital differences. Marriages in which family and kin do not play a major role might be less stable. Grover (2009), on the other hand, draws attention to the destabilizing effect of family and kin in arranged marriages. She argues that marriages in which families had less say in selecting a spouse might be more stable, because women might not expect to receive support from the families nor access to natal homes in times of marital conflict. Marriages in which partners have a greater choice might also engender stability through promotion of emotional bonds, conjugality, and intimacy (Osella and Osella 2006).

The third aspect of the marriage system that could influence marital stability is the status of remarriages. Remarriages are not unusual; however, they are gendered: accepted for men but questioned for women. While remarriage for women is not prohibited, the status of such marriages is lower within Hindu customary practices. Previously married women are considered impure, and remarriage for women does not hold the same customary and ritual significance (Holden 2008). While remarriages and secondary unions (without marriage) for women do occur (Aura 2008; Grover 2011; Parry 2001), the quality of matches (in terms of age, economic situation, marital status, and spouse's family structure) are unfavorable for most women, especially those with children (Mukhopadhyay 2011; White 2013). The possibilities of re-partnering and the quality of potential matches might affect a woman's decision whether to leave or stay in a current marriage.

Legal and conjugal stability of marriage in India

The need to distinguish between legal and conjugal stability is especially important in the context of India. Parry (2001) has observed that in India physical separation may not end the legal relationship, and the absence of legal separation does not guarantee that the couple will remain together. The reasons for and extent to which the two forms of stability differ need to be placed in the legal, customary, socio-cultural, and religious contexts of India.

Legal stability of marriage

The Indian legal system on matters related to marriage and divorce is plural in two senses of the word. First, there are different sets of laws for different groups; second, there is plurality of venues for resolution of marital disputes (Vatuk 2013a). This plurality is historically rooted in the need for consensual legislation and stands in contrast to legal centrism and a single legal code for family matters in much of the West (Ghosh 2009).

There are several family laws (known as personal laws in India) based on religion and legislated by the central (federal or national) government.[4] Different religious groups are governed by their respective codes and by customary laws of their communities. Hindu marriages and divorces are governed by the Hindu Marriage Act (HMA), which also applies to Buddhists, Jains, and Sikhs. Separate laws govern family matters for Muslims and Christians.[5] The Special Marriage Act (SMA) permits marriage between members of any or no religious affiliation and governs divorces for marriages under the SMA.[6]

The Hindu and Special Marriage Acts have similar grounds for granting divorce. The main grounds can be summarized as matrimonial fault, special circumstances, and mutual consent. Matrimonial fault includes adultery (with stringent proof), cruelty, desertion for not less than two years, unsound mind, communicable venereal disease, incurable leprosy, renunciation of the world by entering religious orders, and not having been seen alive for seven or more years (Garg 1998; Parliament of India 2011; Solanki 2011). For wives there are additional grounds of divorce under special circumstances, such as if the husband has been found guilty of rape, sodomy, or bestiality or if the marriage was solemnized before the woman turned 15 and she repudiates the marriage before age 18. Finally, divorce can be granted by mutual consent (ibid.).

There is no provision under the HMA or the SMA for granting divorce as a result of irreconcilable breakdown of the marriage or without mutual consent in the absence of fault or special circumstances. An important aspect of the HMA and the SMA is that they recognize customary divorce that can be granted through village councils, caste organization, and quasi-legal and non-formal institutions. The HMA states that "Nothing contained in this Act shall be deemed to affect any right recognized by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage," with a liberal interpretation of custom.[7]. This recognition of customary law means that divorces can be obtained without any judicial involvement.

For Muslims in India, *Sharia* remains largely un-codified, allowing for plural interpretations (Ghosh 2009). The basic tenet underlying Islamic law is that marriage is considered a contract[8] and can be terminated if the contract is valid or annulled if it is not. Repudiation of the marriage by a husband pronouncing (in oral or written form) *talaq* ("I divorce you") three times, for any or no cause, in the presence or absence of his wife, is binding (Choudhury 2008; Garg 1998; Vatuk 2013a). A wife can repudiate a marriage only if the husband grants her the power to do so or if she has negotiated to have such powers in the marriage contract (Choudhury 2008). Wives and husband can initiate divorce through mutual consent known as *Khul* (or *Khula*). Wives can also seek divorce known as *faskh* from a *qazi* (religious teacher) or third parties if there is no mutual consent (Redding 2012). Women can also seek unilateral divorce under the 1939 Dissolution of Muslim Marriages Act under specified conditions (Jain 2005). These include apostasy, failure to provide maintenance, unknown whereabouts, cruelty, failure to perform marital obligation without reasonable cause, impotence, insanity, severe disease, or any grounds recognized by Muslim law (Nichols 2012).

To obtain a divorce, parties can approach any regular court or family courts that have been set up in many major cities. In either type of court, divorce proceedings can be brought under any religious law or SMA and are heard by civil judges who have no special training in religious jurisprudence (Vatuk 2013b). Thus, a Hindu judge can decide divorce under the Muslim act and vice versa. In addition to these formal venues, marriage disputes can be settled using dispute resolution bodies supported by the government, NGOs, or religious bodies (Grover 2011; Solanki 2011). Community groups such as *panchayats* (village committees or councils) can also mediate and resolve marital disputes and grant separations. Muslims, for instance, can approach non-state dispute resolution forums such as the *dar ul qaza* run by the All India Muslim

Personal Law Board and *Imaarat Shariah* in addition to state-sponsored dispute resolution forums (Lemons 2013; Redding 2012).

Family courts in major cities are aimed at more efficient disposal of cases than regular courts and provide legal aid (Basu 2006; Solanki 2011). Family courts seek to promote reconciliation and resolution of marital disputes by developing consensus between spouses, failing which a judge can rule on the claims and grant a divorce if "convinced of the impossibility of reconciliation" (Solanki 2011: 121).[9] As observed by Vatuk (2013b), the courts see their role as dispensing social justice rather than promoting justice for women.

The recognition of customary law means that divorce can be obtained without resorting to the judiciary (Nichols 2012). This provides a cheaper and informal way of negotiating marital disputes and ending of marital relationships within individuals' own "sociocultural spheres" (Menski 2012). Although the legality of divorces obtained from non-state forums is not fully clear (Redding 2012; Vatuk 2013b), such divorces are for all practical purposes accepted. Separations approved or granted by non-state forums and actors or by the police and NGOs are accepted and recognized by communities and families (Grover 2012; Redding 2012). Many of the cases heard in family courts seek to validate and reinforce customary divorces decided by non-state or informal processes at the customary level (Holden 2008; Solanki 2011). Given the multiple avenues for resolving marital disputes and ending a marriage, many of those seeking redress are engaged in what Holden (2008: 123) describes as "forum shopping strategies," seeking to pressure the other spouse to settle unofficially and out-of-court (Berti 2011).

Conjugal stability of marriage

While the majority of Hindus consider marriage to be a sacred institution and indissoluble, divorce and separation are acceptable and recognized social realities (Holden 2008; Menski 2001*).* Separations can take various forms with different implications for conjugal stability. A common form that may or may not indicate a permanent break in the conjugal relationship is the return of married women to their natal home. For Indian women, moving back to their natal home as a result of marital problems or disagreements or unhappiness with a husband or in-laws is considered a "right" and a "moral and social entitlement" (Grover 2009)*.* Such a right to return to the natal home, even if it is intended to be temporary, gives women

bargaining power and opportunities for reconciliation. The duration of stay at the natal home and the success of subsequent negotiations might indicate the breaking or restoration of marital bonds (Parry 2001, 2004). It is not uncommon for women to move back and forth between natal and conjugal homes, and these moves should be not seen as a step toward dissolution of a marriage but rather as maintaining the possibility for reconciliation. The need for labor in the natal home might be another reason for a woman's return (Palriwala 1991). Although women consider it a right to return to their natal home, for many women support from their family will be determined by circumstances in the natal home. These circumstances include the presence of unmarried siblings whose marriage prospects might be negatively affected by the return of a married woman (Greenberg 2003). Also, parents might feel that their obligation to their daughter ended at the time of her marriage and might be reluctant or unable to support her further.

There are regional differences in the extent to which women can draw support from their natal families. These differences are rooted in the prevailing kinship system, culture, and socio-political structure. The differences in interrelated aspects of marriage rules, lineage, and post-marital residence explain the differing levels of support available to women from their natal families after marriage (Chakraborty and Kim 2010). These circumstances also influence women's position and bargaining strength within the marital family. In regions where patrilineal, patrilocal, and exogamous marriages are the norm such as in the north (with especially rigid enforcement in the northwest), women's link to their natal family after marriage is weak. A woman in these regions is considered as being transferred to her husband's family and no longer contributes to nor can expect to receive support from her natal family (Das Gupta 2010). In the south, with a higher prevalence of endogamous and reciprocal cross-cousin marriages, there is greater flexibility in a woman's relationship with her natal family, and a woman can expect a higher degree of support from her natal family (Andrist, Banerji, and Desai 2013). The kinship system in the northeast is less rigid, and women are in a much more favorable position than elsewhere in the north (Dikshit and Dikshit 2014; Marak 2012). These differences in kinship, marriage, and cultural systems are also likely to be reflected in the levels of marital instability across regions.

Conjugal stability could be strained by childlessness and lack of sons. A married woman's identity, status, power, and self-worth are tied to her reproductive fruitfulness (Bharadwaj 2003; Nandy 2015). Infertility and absence of children are considered to be the

woman's fault regardless of the actual cause (Mehta and Kapadia 2008). As Riessman (2000) has observed, childlessness is seen as deviating from normative expectations and might sever the relationship between spouses in an arranged marriage in which the couple do not have strong bonds at the time of marriage. The desire to have children immediately after marriage is nearly universal, and conscious fertility control seldom occurs until after the first birth (Dommaraju 2009). In this demographic context childless couples face considerable social pressure.

It is not only the number of children but also their sex composition that affects marital stability. Bose and South (2003) established that having sons inhibits divorce and that this relationship is invariant for different groups of women. As with childlessness, not having a son might strain marital bonds in a society with son preference. Guilmoto (2008) highlights the extent and intensity of son preference in the form of skewed sex ratios in the demographic context of declining fertility. Sex ratios rose rapidly in the 1990s before levelling off and declining slightly in the past decade (Bongaarts and Guilmoto 2015). The reasons for son preference are varied and intertwined, ranging from marriage and kinship systems, sexual milieu, family structure, political and state systems, and religious rituals and customs that require sons (Das Gupta 2010; Jeffery 2014). Whatever the reasons, women are blamed for lack of sons, and absence of sons in seen as a valid reason for men to remarry (with or without separating from the current spouse).

As described earlier, features of the marriage system such as spouse selection, marriage type, and remarriages might also affect conjugal stability. A broad indicator that influences many of these aspects of marriage is women's education. Education increases women's choice in selecting partners, delays entry into marriage, and creates less hierarchical power relationships within marriage (Chakraborty 2012; Desai and Andrist 2010; Gilbertson 2014; Kalpagam 2008). The influence of education on marital stability depends on prevailing rates of marital dissolution and the degree of gender inequality. The education gradient in divorce shifts from positive to negative as divorce becomes more common and marriage is de-institutionalized (de Graaf and Kalmijn 2006; Härkönen and Dronkers 2006; Kreager et al. 2013; Matysiak et al. 2014). One could generalize that in contexts where the cost of divorce, whether social, family, economic, or legal, is high, the education gradient would be positive, as better-educated women would be able or willing to bear the cost; and, as this cost declines, the gradient would turn negative. In some

East Asian countries, though the barriers and cost are high, the gradient is negative as a result of contextual factors (Chen 2012; Lee 2006; Park and Raymo 2013). In these societies with a high value attached to family reputation and honor, the social cost of divorce might be higher for better-educated women (Chen 2012). Thus, the relationship between women's education and marital stability might also depend on contextual factors such as the importance of family reputation, class identity, and meanings attached to marriage.

Quantifying marital stability

Registration, court records, censuses, and surveys

Marriage and divorce registration is not compulsory. The personal laws for Hindus and Muslims do not mandate registration of marriage and divorces (Aura 2008). Some state governments in recent years have introduced legislation to make it compulsory to register a marriage for all or some areas or groups, and, after repeated prodding by the Supreme Court, many other states since 2006 are in the process of introducing laws to make marriage registration compulsory (Law Commission of India 2008a). However, these efforts are limited to registration of marriages and do not apply to divorce or separation. With some exceptions,[10] there is no legislation or provision to register a divorce or separation even if one wishes to do so.

Courts and dispute resolution bodies usually have records on number of cases filed, status of the cases, and information on reasons for seeking a divorce. They are not, however, required to report this information to any government agency and these data have never been systematically collated. Still, researchers and journalists have compiled data from selected courts in some cities.[11] A common conclusion from these data is that the number of cases filed or divorces granted has increased over the recent years. While such data are useful in showing that many men and women do turn to courts to settle marital disputes, they are not useful in gauging trends in marital dissolution. As Solanki (2011) notes, the numbers based on court records are incomplete and often provide a misleading account of trends. As a demographic measure, the numbers from the court filings have a problematic numerator and an absent denominator. The number of cases filed covers only those that have approached the court, and, even for those, the final outcome might not have been a divorce. The absence of denominator means that the increase in the population or in the number of marriages or married couples is not taken into account. It is possible that the increase in the number of cases filed might to some extent reflect

the increase in numbers of married people. The court records, nevertheless, provide valuable information on the type of people approaching legal venues to seek resolution and the pleaded reasons for marital instability. Common reasons pleaded by women include cruelty, physical abuse, alcohol problems, and desertion.[12]

The Indian censuses collect information on current marital status of all household members as part of the household schedule. Census tables are published for each district and state and for the entire country, but micro-data are not released. Census tables related to current marital status give information by sex and five-year age groups.[13] All censuses, with the exception of 2011, combine divorced and separated into a single category in the tables. In the 2011 census, numbers for divorce and separation are reported separate. These numbers, while useful in providing a snapshot of current marital status, lack information on the timing of divorce or separation.

Surveys provide micro-level data on marital status. Over the last two decades, several large-scale nationally representative demographic, household, and health surveys have been conducted in India.[14] Many of them have a question on marital status and age at marriage; but, with the exception of one survey described in the next section, no information is available on duration of marriage for marriages dissolved by divorce, separation, or desertion. In addition, none of the surveys has detailed marital history data that include information on remarriages and the nature of divorce and separation. This lack of information makes it difficult to reconstruct marital life histories. While reports from smaller anthropological studies within certain regions or groups provide scattered quantitative evidence on dissolution of marriages,[15] they are limited in their relevance to national patterns and trends.

Data, analyses, and sample characteristics

The primary data for the analyses that follow come from the third round of the District Level Household and Facility Survey (DLHS-3) conducted in 2007–8. The DLHS is broadly similar to the Demographic and Health Survey (DHS), but with the aim of producing representative data for all districts and with emphasis on measuring the progress of health and other public programs (IIPS 2010). The survey, which covered 601 districts in 34 states and union territories, collected data from 643,944 ever-married women in 720,320 households (ibid.). The large sample size allows for a robust examination of a low-risk event such as divorce and separation.

The data from the ever-married women's questionnaire on marital status form the basis of the analyses. The questionnaire asked women their current marital status and, for those currently widowed, separated, divorced, or deserted, information on how long they have been in their current marital state. Because some of the separations could be temporary, only women who are separated for more than one year are considered as separated for the purposes of this paper. Those who report their current marital status as divorced or deserted or were separated for more than one year are combined into a single category. The plurality of forms of separation, discussed earlier, means that it is both conceptually and analytically necessary to consider the various forms as a single category.

The survey also collected information on characteristics of the respondents. The article uses information on educational attainment of women and husbands, year of marriage, number and sex composition of living children, religion, region, area of residence, and caste. Number of living children is time invariant as the survey did not collect detailed fertility history data. Because childbearing outside of marriage is highly unlikely in India, it is reasonable to assume that children were born in the marriage before it was dissolved.

Standard survival analyses and discrete-time logistical models are used. The event of interest is whether a woman experiences divorce, separation, or desertion. The risk of the event begins from the time a woman starts living with her husband.[16] For women who experience the event, the duration of risk is between the year they started living with their husband and the year of the event. Women who did not experience the event are censored either at the year of interview or at the year of their widowhood if they are widowed. The duration of risk is measured in years. The analysis is restricted to women who married between 1987 and 2007 (inclusive of both years). Survival estimates are based on the Kaplan–Meir method. The discrete-time model is based on the person-year risk of the event and is estimated using a logistic function (Allison 2010; Singer and Willett 2003). The duration of risk is modeled using a quadratic term.[17] The estimates are presented in the form of odds ratios. All analyses are conducted using weights provided in the dataset.

There are some exclusions and caveats. Women in the two outlying and sparsely populated islands of Andaman and Nicobar and Lakshadweep were not included in the analyses. The analyses are based on women who at the time of the survey were divorced, separated, or

deserted. This means that those who were divorced or separated previously but had remarried by the time of the survey would not be counted as divorced or separated. There is no information on the remarriages in the DLHS-3. However, examination of another nationally representative survey, the 2005–6 Indian Human Development Survey (IHDS), shows that 1.1 percent of ever-married women had married more than once, and only 0.78 percent of currently married women were previously divorced or separated.[18] These numbers indicate very low rates of remarriage for women and are unlikely to have a major impact on the conclusions drawn in the article. Measures are not included for economic status. Although the DLHS-3 has a wealth index, it is based on the household status at the time of the survey. Using this measure of wealth might be problematic especially since women's current economic status is likely to be affected by divorce or separation.

The sample characteristics for variables used in the analyses are presented in Table 1. The table shows the percent in each category for those who are married and those who are divorced or separated. The analysis is based on 472,563 ever-married women, of whom 6,522 were divorced, separated, or deserted.

Results

Descriptive findings

The 2011 census recorded more than 1.5 and 3.2 million divorced or separated men and women respectively (see Table 2). The number of Indians who were divorced or separated more than doubled over the past two decades, and the number of women divorced or separated exceeded the number of men in all census years since 1961. The lower number of divorced or separated men is almost certainly due to their higher rates of remarriage compared to women. The proportion divorced or separated is generally below 1 percent for men and women in both rural and urban areas, except for urban women among whom it reached 1.04 percent in 2011. The magnitude of the difference between rural and urban areas is not large. The percentages show a continuous increase over the last three censuses starting from 1991. The 2011 census presents numbers for divorced and separated separately. Among both men and women, those who separated constituted about 72 percent of those who either divorced or separated.

The age patterns seen in Figure 1 show increasing levels of divorce or separation by age for women, peaking at ages 40–44 in the most recent census. For men in most age groups,

however, setting aside the pattern at very young ages, the age pattern shows no marked peaks between 25–29 and 45–49. Men aged 15–19 have a notably higher level of divorce or separation in recent decades, reflecting the instability of early marriages for men. For men in most age groups, the levels for 2011 are higher than for all other census years except 1961. The reason for the higher level seen in 1961 in almost all age groups for men is not clear.

The trend in probability of divorce or separation for women based on DLHS-3 data is presented in Figure 2. There is a rising trend in the probabilities of divorce and separation over the 20-year period, with rapid increases seen after 1999–2001. The probabilities nearly tripled by the end of the observation period. This rise roughly coincides with the opening of the Indian economy and its integration with global economy, structural changes such as weakening of state regulation and controls on employment and media, and liberalization in various spheres of social and individual lives.

The percent of marriages that end in divorce or separation for different groups, based on survival estimates, are presented in Figure 3. About 2 percent of all marriages in India end in divorce or separation within 20 years of marriage. As seen in Panel A, this varies from around 4 percent in the northeast to less than 1 percent in the north. The northeast, with roughly 4 percent of India's population, is related culturally both to mainland South Asia and to Southeast and East Asia (de Maaker and Joshi 2007; Dikshit and Dikshit 2014) and has distinct demographic and marriage patterns and gender systems. The differences seen between India's southern and northern regions mirror differences in other demographic patterns such as fertility. These differences are due to distinctions between the two regions in kinship and marriage systems and in the status of women.

Panel B shows lower rates of marriage dissolution among Hindus than among Muslims and members of other religious groups (including Christians, Buddhists, and Sikhs). The biggest difference is between Hindus and Muslims, on the one hand, and members of other religious groups, on the other. Multivariate models are used below to assess whether these religious differences are the result of the spatial distribution of the groups and the prevailing circumstances in the regions or are attributable to socioeconomic characteristics.

Panel C indicates that women with higher education have a lower risk of divorce or separation than those with less education. In the context of low rates of marital dissolution,

better-educated women might be expected to have sufficient resources to overcome social and other costs of divorce or separation. As the estimates suggest, however, better-educated women appear to have more stable marriages. The reasons for this finding are discussed in the next section.

Finally, Panel D indicates that women with at least one son have the lowest risk of divorce or separation, while women with no children have the highest risk. Nearly 11 percent of women with no children have marriages ended by divorce or separation. Differences between women are higher by number of children than by region, religion, or education. In a strongly pro-natal society where having children is seen as an essential aspect of marriage, lack of children might severely strain marital bonds.

Odds ratios

The unadjusted[19] and adjusted odds ratios from the discrete-time models are presented in Table 3. The unadjusted odds for marriage cohort indicate a pattern of increasing risk for later cohorts. Among other factors, urban women have higher risk than rural women, and those whose husbands have the lowest level of education have higher risk. The unadjusted estimates for women's education, religion, living children, and region are similar to those presented earlier in the figures depicting survival estimates.

The adjusted odds ratios presented in the next column confirm the direction and magnitude of the educational differences seen earlier. Women in the middle category of education were 45 percent more likely than those with higher education to be divorced or separated. The difference between the lowest and middle educational groups can also be compared (not shown in table). Women with no or lower education were 20 percent less likely than the middle education category to be divorced or separated. Women whose husbands had low or no education were twice as likely to divorce as women whose husbands had higher education. Lower education of women and husbands increases the risk of divorce of separation.

Absence of children increases the risk of divorce or separation tenfold, and absence of sons about threefold, compared to those with at least one living son. The odds of divorce or separation for women with no children were more than three times the odds for women with no son (not shown in table). Moving to marriage cohorts, the estimates in the adjusted models

indicate that women who married before 2002–2008 had lower risk of divorce and separation than those who married in 2002–2008.

Muslims and those in the "other" religious category had 32 and 81 percent higher odds of divorce and separation compared to Hindus; Muslims were 27 percent less likely than those in the "other" category to divorce or separate (results not shown in table). Women belonging to Scheduled Castes and Tribes had higher risk than other caste groups. The effect of urban residence is higher in the adjusted model, with urban women 50 percent more likely to divorce or separate. The pattern of regional difference seen in unadjusted models remains similar in the adjusted model. Regional comparison from the model shows that southern states had higher risk than those in the north, east, and central regions. The only two regions that are either higher than or not different from the south are the northeast and the west.

The changing role of education across marriage cohorts is examined using an interaction term for education and marriage cohort in a model that includes all other covariates used in the adjusted model in Table 3. The results from the interaction model are presented in Table 4. For brevity, only the interaction estimates are presented in the table, and estimates for other covariates are not shown. The odds of divorce or separation for women with no or low education compared to those with higher education changed from being not significant for the earliest marriage cohort to 40 percent higher in the most recent marriage cohort. Similarly, the odds of divorce or separation for the middle education group compared to those with higher education increased for each cohort, and for the most recent cohort was about 75 percent higher. The difference between the lowest and middle educational level changed only modestly. Overall, the results suggest an increase in marital instability for women with lower and middle education compared to those with higher education.

Discussion

The study presented estimates of trends, prevalence, variations, and factors related to marital stability in India. The estimates show a rising trend of divorce and separation starting from a low base. Many of the changes that have occurred over the last two decades might have influenced marital stability. These include a decline in arranged marriages, the changing role of women, ideational shifts, greater access to the legal system, economic growth accompanied by insecurity, the communication revolution, and new possibilities for meeting and (re)partnering (Baas 2009;

Dommaraju and Jones 2011; Grover 2011; Jauregui and McGuinness 2003; Jesmin and Salway 2000). These changes should not, however, be considered as necessarily a move toward Western or modern institutions. As in other parts of Asia, while these changes could have influenced marital stability, the direction and magnitude of the influence are context specific. One such change in the marriage system—a shift from arranged marriages to a hybrid form involving a degree of choice—could either stabilize a marriage because of a more compatible match or destabilize it in the absence of anchoring support of close family and kin. The results from the effect of education, used as a broad indicator to capture some of these changes, are suggestive of the potential influence of these factors in the context of India.

Women with higher education had more durable marriages than women with little or no education. This educational difference has widened over the two decades (1987 to 2008), with increasing instability for women with little or no education. Marriages in which women have a greater say are much more common among those with higher education (Andrist, Banerji, and Desai 2013). The durability of marriages among the more highly educated might be an indication that choice in marriage partner contributes to marital stability.

The influence of education in India is contrary to the expectation that in a low-divorce setting, where the cost of divorce is high, better-educated women might have the necessary resources to leave a marriage. Women with higher education might also have different expectations from a marriage that might conflict with existing gender roles. Among the educated and the middle and upper classes, the notion of a good marriage has shifted to include sharing of responsibilities and a greater emphasis on equality (Allendorf 2012; Gilbertson 2014; Jaiswal 2014; Palit 2014). Notions of romantic love and of emotional, physical, and cognitive intimacy are considered important for marital satisfaction (ibid.), and perceptions of marital discord could lead to divorce and separation (Jennings 2014).

The durability of marriages among better-educated women suggests that greater bargaining power, greater autonomy in spouse selection, and more equal gender relationships could create strong marital bonds. This observation also suggests that the durability of marriage might serve as a marker for class distinctions. Within the middle and upper classes, a good marriage is one that is durable, and women are seen as responsible for maintain stable marriages (Chakraborty 2012; Gilbertson 2014). For educated women, marital stability is a symbol of a

good marriage and respectability, in contrast to the unstable and permissive marriages among the less educated and lower classes. The permissiveness and acceptability of multiple conjugal unions among the lower classes are facilitated by structural factors and deprivations in low-income neighborhoods (Grover 2011). The intensification of structural disadvantages and deprivations, coupled with rising aspirations in a liberalized economic structure accompanied by labor market uncertainties and inequalities, might have further destabilized marriages among the less educated.

The results show the importance of childbearing and having sons on marital stability. With nearly universal marriage and the primacy of children as the family ideal, lack of children in a marriage exerts tremendous strain on marital bonds. The burden of not bearing children, irrespective of the actual reason, tends to fall heavily on women. Men consider a childless marriage as a legitimate reason to get remarried with or without separating from their current spouse. While some childless women seek to construct alternative identities and sustain marital ties (Riessman 2000), for many couples childlessness spells the end of a marriage. The present findings affirm Bose and South's (2003) conclusion and show the continued relevance of pro-natal and son preference ideals for marital stability.

The comparatively low level of marital dissolution in India might seem to represent a desirable situation if marital stability was underpinned by marital satisfaction, symmetrical gender power relationship, an equitable socio-legal system, and egalitarian values. For many women, however, staying or leaving a marriage is not necessarily dependent on any of these values. In a system where some women see leaving a marriage as their last alternative before either killing themselves or being killed by their husbands (Aura 2008), and leaving a marriage is still seen as a "reflection of her character, morals, or child-bearing ability" (Hornbeck et al. 2007: 277), divorce or separation is a poor measure of marital satisfaction or happiness. Besides shame, divorced or separated women face the risk of sexual harassment (Walters et al. 2012). Divorced or separated women have limited rights to support and no right to property and assets accumulated during the marriage (Agnes 2009; Singh 2013). Although some parents are able and willing to support their divorced daughters (Greenberg 2003), such support is still limited. The difficulties associated with re-partnering also might limit women's choices. The spread of online matrimonial sites for those seeking to remarry provides new possibilities for re-partnering, especially among better-educated women and those living in urban areas.

An amendment to the Hindu Marriage Act and the Special Marriage Act was introduced in Parliament in 2010 to make divorce procedures less difficult by including irreconcilable breakdown of marriage as a ground for divorce (Law Commission of India 2009; Parliament of India 2011). Passage would have allowed for ex-parte divorce without proof of fault. However, the amendment has not been passed by Parliament owing to reservations about the potential "misuse" of the provision and concerns about whether the financial and economic rights of women would be safeguarded (ibid.).[20] Besides the HMA and the SMA, marital disputes also involve laws meant to protect women from domestic violence, dowry harassment, and cruelty. The laws, paradoxically, are seen by the fledgling men's rights movement as weakening the traditional family and contributing to marital discord (Basu 2006; Chowdhury 2014). These laws have implications for both marital stability and resolution of marital disputes.

In light of the difficulties in using legal venues to dissolve a marriage, customary norms that emphasize interconnected social relationships rather than individual rights are seen as an alternative (Menski 2012). These customary norms might allow women to claim agency on the basis of custom and open up new possibilities to maximize their rights in ending a marriage (Holden 2008; Solanki 2011). While allowing some women to negotiate their right to end marriage in terms of custom, they also subject many women to "social boycott, persuasion, shame, reprimand, and ridicule by caste and sect authorities" (Solanki 2011: 57). The possibilities offered by communal and customary avenues are not ideal in a context where underlying social relationships are unequal and power is gender based.

Conclusion

This study quantified the prevalence and variations in divorce and separation in India. The numbers show a rising trend of marital dissolution resulting from divorce or separation. The overall level of marital dissolution, however, remains low. The findings also revealed important differences by region and religion. The regional differences are attributable to differences in kinship, cultural, and marriage systems. The religious differences are underpinned by both legal and cultural norms of the respective communities. The findings also contribute to our understanding of the role of education in marital stability. In India education promotes marital stability. As discussed above, education might provide women with greater say in marriage,

greater bargaining power, and greater gender equity—all of which could contribute to stronger marital bonds.

The study's findings were based on survey data that recorded marital status information. A limitation of such data is that it views marital dissolution as an event. In India marital dissolution lacks the concreteness of a definite break granted by a legal authority. Instead, marital dissolution is a process that is fluid and ambiguous with blurred boundaries. There is a need to collect data using survey instruments that are sensitive to the complexities and pluralities of marital dissolution in India. To provide a more complete and accurate understanding of marital dissolution would require abandoning the simple recording of current marital status, as in most major demographic surveys in India, and devoting more attention to marital histories and biographies of both men and women.

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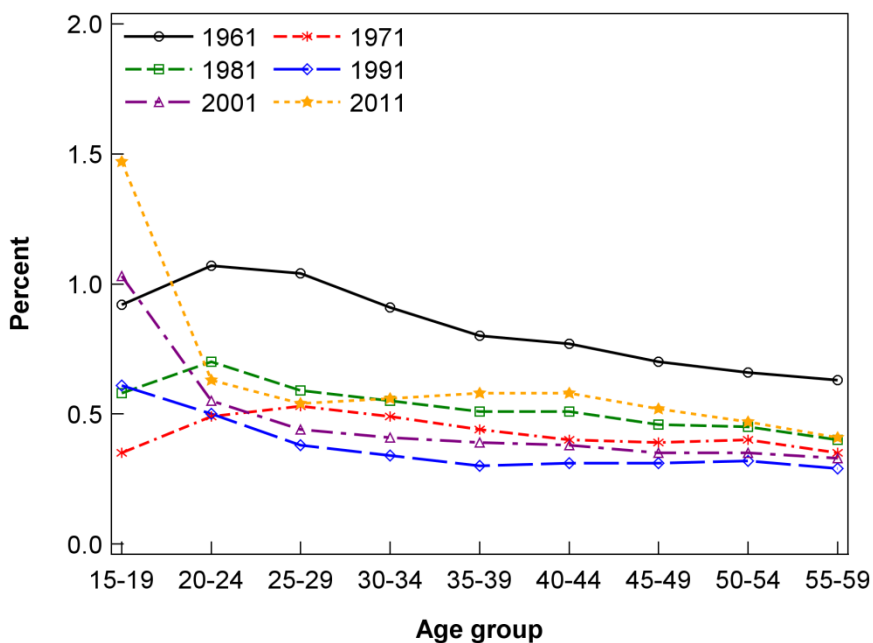
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Figure 1: Percent divorced or separated among ever-married men and women aged 15 and over, by age group and year, India, census years 1961–2011

A: Women
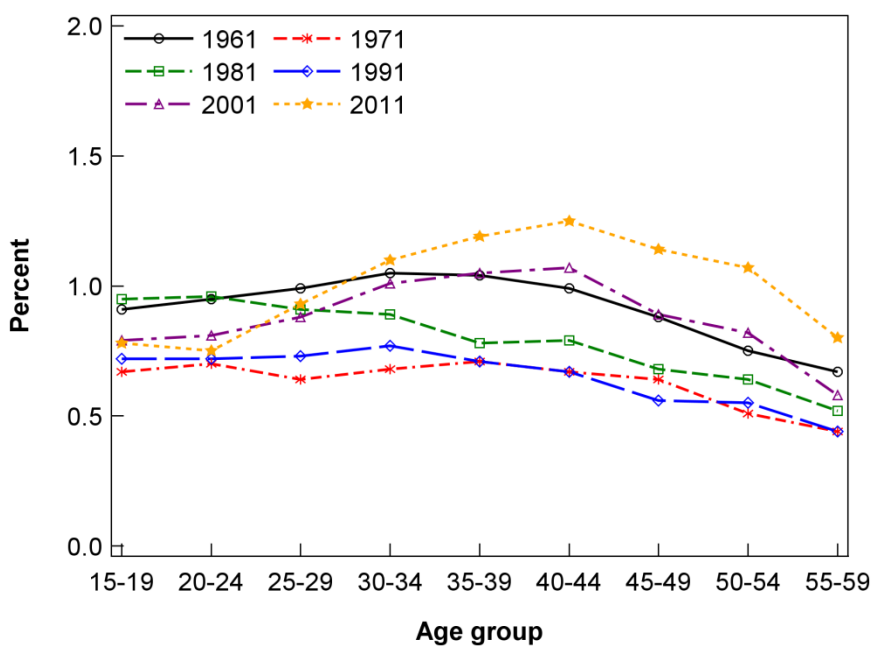
B: Men

Source: For 1961, 1971, 1981 and 1991, Indian census data as reported in United Nations (1999). For 2001 and 2011, Indian census data from the tables published by the Office of the Registrar General and Census Commissioner of India, various years.

Figure 2: Probability of divorce or separation for women, by year, India, 1987–2008, with 95 percent confidence intervals (shaded)
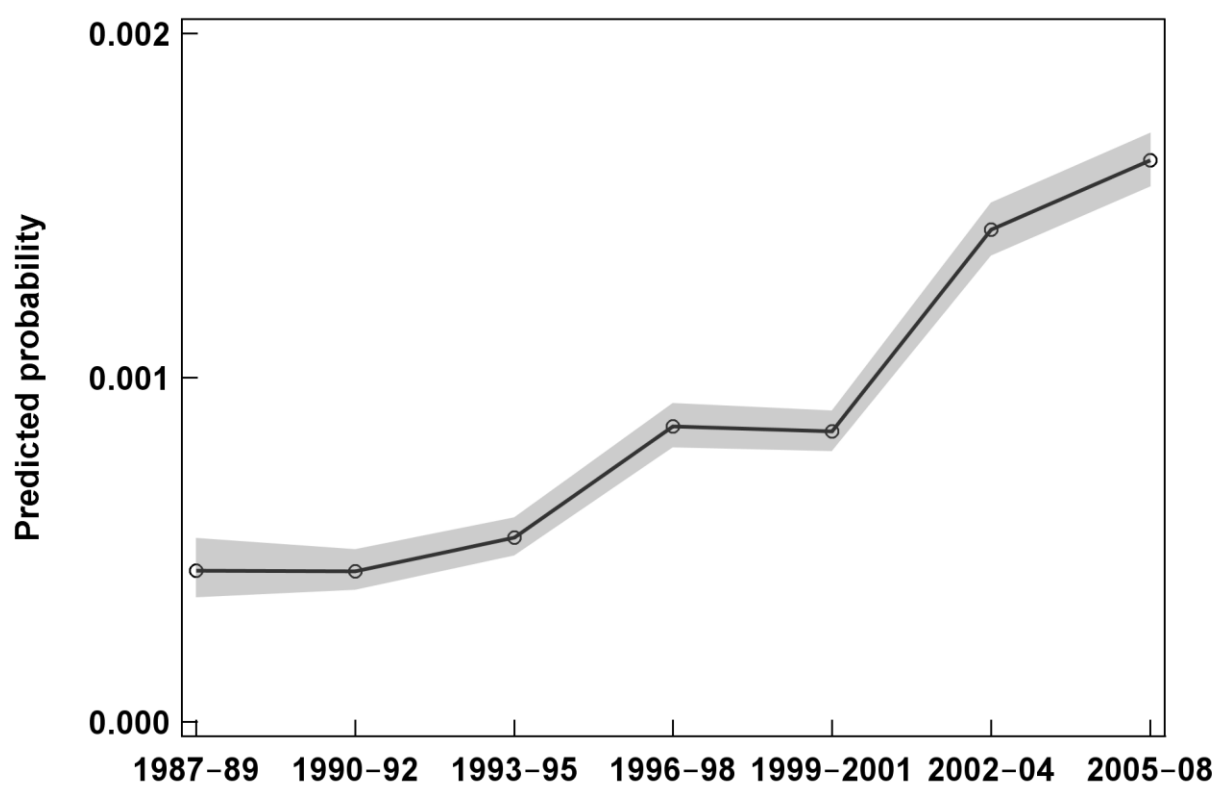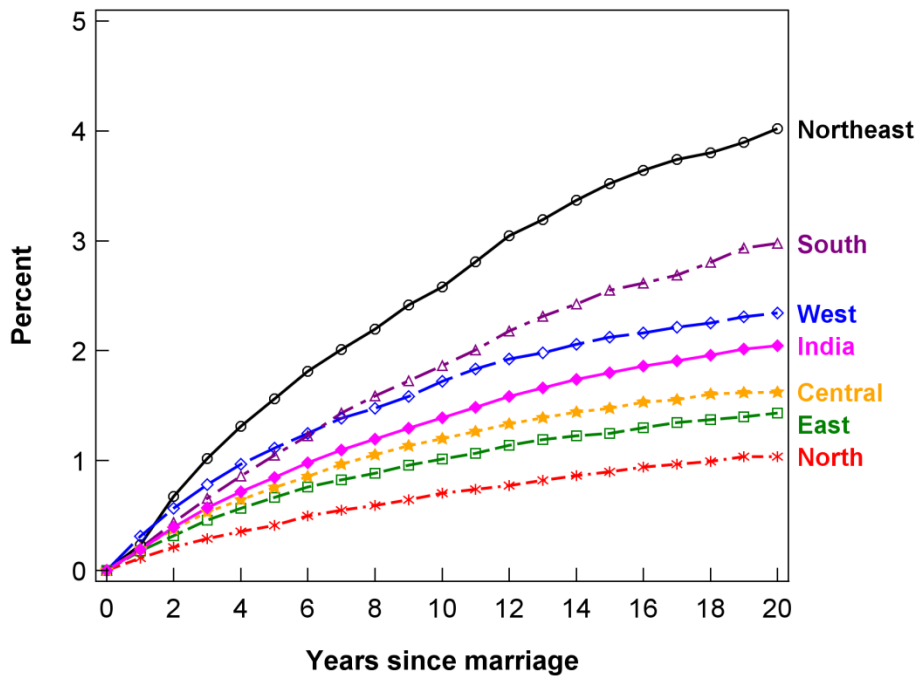

Note: Probabilities estimated using a discrete-time logit model with year and quadratic form of marital duration as covariates.
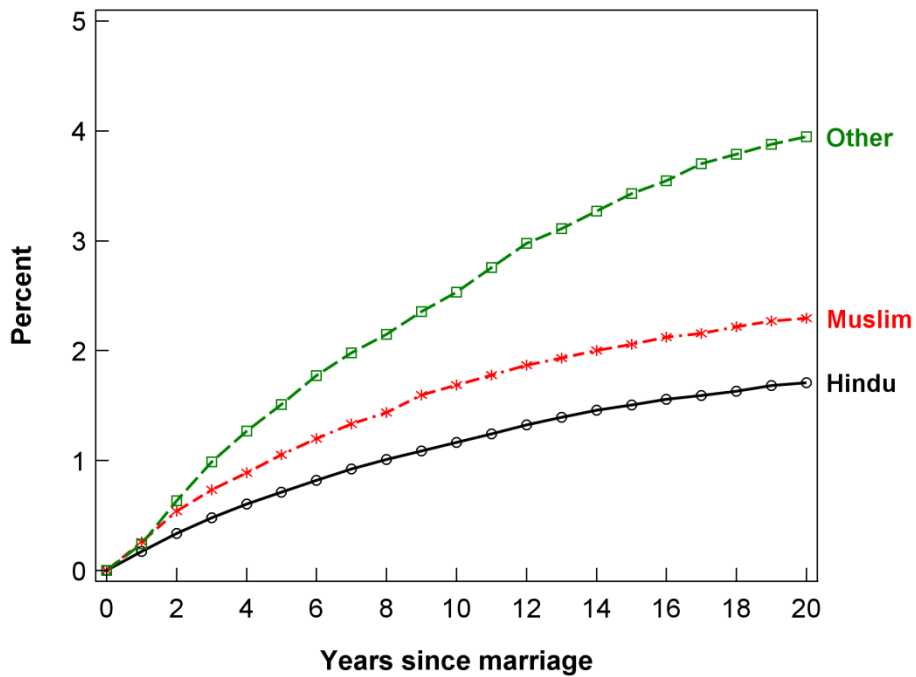Source: Author's calculation based on DLHS-3 data.

Figure 3: Percent of marriages ending in divorce or separation among women, survival estimates, by region, religion, education, and number of children, India
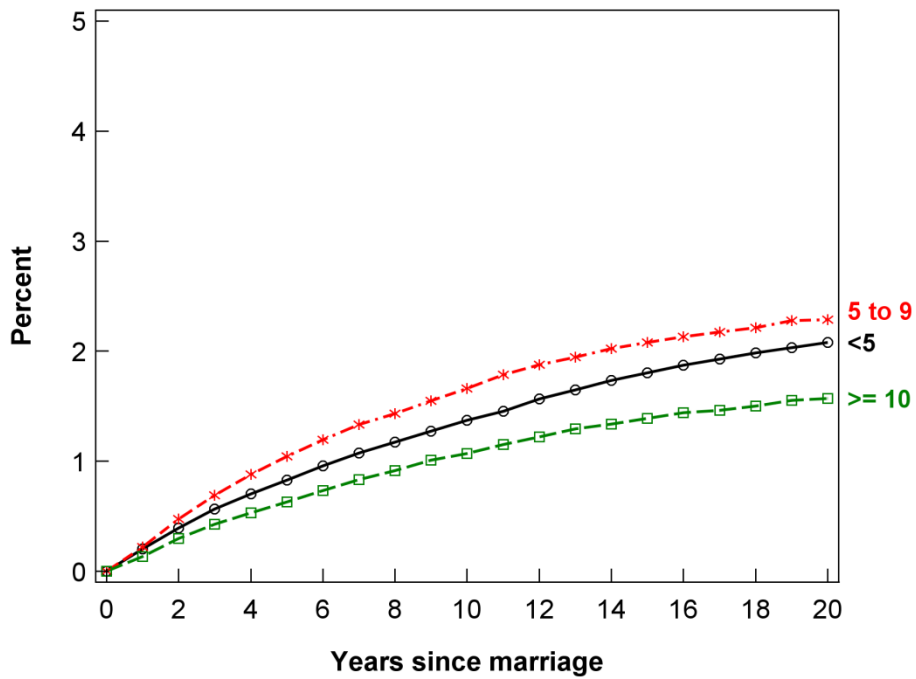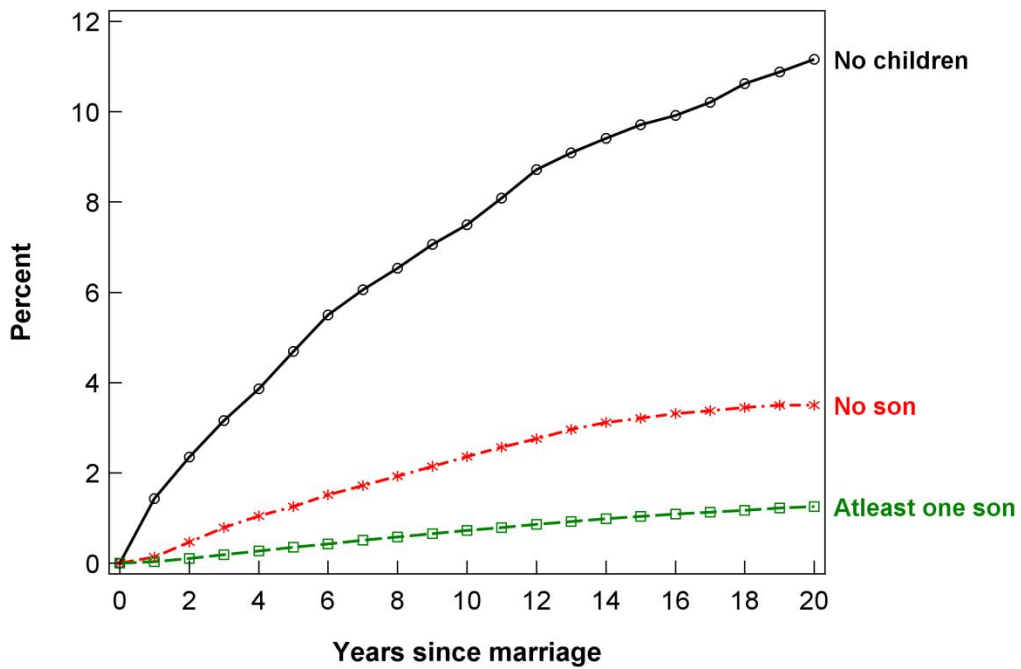
A: Region

B: Religion

Figure 3 continued

C: Education in years

D: Children

Source: Author's calculation based on DLHS-3 data.

Table 1   Sample characteristics, percent or mean, India, 2007–8

	Married	Divorced or separated
Education, women (%)		
Less than 5 years	47.1	50.8
5 to 9 years	29.9	33.3
10 or more years	23.0	15.9
Education, husband (%)		
Less than 5 years	29.3	44.5
5 to 9 years	33.7	28.2
10 or more years	36.9	27.2
Marriage cohort (%)		
1987–1995	40.5	41.0
1996–2001	29.5	30.7
2002–2007	30.0	28.3
Living children (%)		
None	10.0	32.8
No son	16.4	22.6
At least one son	73.6	44.7
Religion (%)		
Hindu	76.4	63.7
Muslim	12.2	14.2
Other	11.4	22.0
Caste (%)		
Scheduled Tribe	17.4	16.9
Scheduled Caste	16.9	28.7
Other Backward Class	39.8	34.9
Others	26.0	19.5
Area (%)		
Rural	68.3	64.0
Urban	31.7	36.0
Region (%)		
Northeast	12.1	23.6
North	21.5	10.8
East	18.0	12.8
West	10.1	12.2
South	15.8	21.7
Central	22.5	18.9
Marriage age, mean	18.5	18.9
Marital duration, mean	11.5	5.9
Number of respondents	466,041	6,522

SOURCE: Author's calculation based on DLHS-3 data.

Table 2   Percent and number divorced and separated among ever-married men and women aged 15 and over, India, census years 1961–2011

| | Percent | | | | | | Number | |
| | Men | | | Women | | | Men | Women |
	All	Urban	Rural	All	Urban	Rural		
1961	0.83	—	—	0.92	—	—	838,730	1,041,118
1971	0.43	—	—	0.63	—	—	518,000	843,600
1981	0.52	0.29	0.59	0.79	0.64	0.84	750,544	1,302,543
1991	0.34	0.23	0.38	0.65	0.55	0.69	653,200	1,391,177
2001	0.40	0.34	0.42	0.86	0.81	0.88	947,754	2,298,200
2011	0.53	0.55	0.52	0.97	1.04	0.94	1,551,586	3,211,094

SOURCE: For 1961, 1971, 1981, and 1991, Indian census data as reported in United Nations (1999). For 2001 and 2011, Indian census data from tables published by Office of the Registrar General and Census Commissioner of India, various years.

Table 3 Discrete-time logistic regression estimates of marital dissolution for Indian women

	Unadjusted odds ratio	Adjusted odds ratio
Education, women		
Less than 5 years	1.22	1.18
5 to 9 years	1.46	1.45
10 or more years (ref.)	1	1
Education, husband		
Less than 5 years	1.82	2.05
5 to 9 years	1.1	1.05
10 or more years (ref.)	1	1
Marriage cohort		
1987-1995	0.32	0.63
1996-2001	0.5	0.86
2002-2007 (ref.)	1	1
Living children		
None	11.43	10.4
No son	3.08	2.82
At least one son (ref.)	1	1
Religion		
Muslim	1.35	1.32
Other	2.22	1.81
Hindu (ref.)	1	1
Caste		
Scheduled Tribe	1.33	1.16
Scheduled Caste	2.19	1.32
Other Backward Class	1.19	1.01
Others (ref.)	1	1
Area		
Urban	1.23	1.51
Rural (ref.)	1	1
Region		
North	0.27	0.39
East	0.35	0.42
West	0.62	0.84
South	0.72	0.87
Central	0.45	0.62
Northeast (ref.)	1	1
Marriage age	1.05	1.01
Marital duration	a	1.03
Marital duration squared	a	0.99
N (person-years)	5,202,447	

NOTE: All estimates significant at $p < 0.01$ except adjusted marriage age ($p < 0.05$).
[a] Marital duration controlled in all models.
SOURCE: Author's analyses based on DLHS-3 data.

Table 4: Discrete-time logistic regression estimates of the relationship between marriage cohort, education and marital dissolution for Indian women

	No or lower vs. higher education			Middle vs. higher education			No or lower vs. middle education		
	OR	95% CI		OR	95% CI		OR	95% CI	
Marriage cohort									
1987–1995	1.10	0.95	1.26	1.29	1.12	1.48	0.85	0.77	0.94
1996–2001	1.06	0.91	1.22	1.34	1.17	1.54	0.79	0.71	0.88
2002–2007	1.40	1.21	1.63	1.74	1.51	2.00	0.81	0.72	0.90

NOTE: Model controls for all covariates as in Table 3. OR: odds ratio. CI: confidence interval.
SOURCE: Author's analyses based on DLHS-3 data.

1 *New York Times*, 19 February 2008. Other media headlines include "In tradition-bound India, female, divorced and happy" (*Washington Post*, 19 September 2008); "Not so happily ever after as Indian divorce rate doubles" (BBC, 1 January 2011); "Divorce rates climbing up in Bangalore" (*Times of India*, 2 August 2007).

2 The level of pre-marital sexual experience is reportedly low. About 4 percent of young women aged 15–24 reported having pre-marital sex in a sub-national representative sample conducted in 2006–7 (IIPS and Population Council 2010).

3 Data from the Indian Human Development Survey (IHDS), conducted in 2005–6 show that only 5 percent of women had self-arranged marriages with no active participation of parents or families (Andrist, Banerji, and Desai 2013)

4 According to India's Constitution, both states and the central government can legislate on family matters. However, central legislation takes precedence and supersedes any state legislation. Because there is existing central legislation related to marriage and divorce, the states' legislative role has been limited (Garg 1998).

5 The Hindu Marriage Act, enacted in 1955, was amended in 1976 to include cruelty, desertion, and mutual consent as grounds for divorce (Law Commission of India 1978). Muslim family matters are governed by the Muslim Personal Law [Shariʿat] Application Act of 1937 and the Dissolution of Muslim Marriages Act of 1939 (Jones 2010). Christian marriages are governed by the Christian Marriage Act of 1872 and the India Divorce Act of 1869. The provisions related to grounds for divorce largely remained unchanged for over a century. An amendment to the India Divorce Act in 2001 expanded divorce rights and made the provisions gender equal (Law Commission of India 1983; Subramanian 2008). Previously grounds for men seeking divorce were very limited (ibid.).

6 The Special Marriage Act, enacted in 1872 initially applied only to individuals who had no religion or faith. In 1954 the act was repealed and replaced by a new act under the same name. The act allows

marriages in which the parties are from different religions, from the same religion, or no religion. This is an optional law and serves as an alternative to other religious personal laws (Law Commission of India 2008b). The provisions for divorce for couples married under the SMA are broadly similar to those in the HMA.

7 Custom is defined as "any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family: Provided that the rule is certain and not unreasonable or opposed to public policy and provided further that in the case of a rule applicable only to a family it has not been discontinued by the family" (Hindu Marriage Act, 1955, Chapter 1: Definitions).

8 Use of the word contract does not mean that Muslim marriages are solely contracts. As Lemons (2013) explains, adjudication of marital disputes among Muslims does not rely solely on contractual law but is also based on ethical, religious, social, and emotional factors.

9 The Family Court Act of 1984 states, "It is the duty of the Family Court to make efforts for settlement… [efforts shall be made] to assist and persuade the parties in arriving at a settlement…[if] there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings.

10 Some states such as West Bengal, Bihar, Jharkhand, Orissa, Assam, and Meghalaya provide for voluntary registration of Muslim divorces under the Muslim Marriage and Divorce Registration Acts. There are no corresponding provisions for Hindus or other religious groups to register divorce (Law Commission of India 2008a).

11 Singh and Sinha's (2005) study based on one family court in Mumbai shows an increase in the number of cases filed from 1,839 in 1991 to 2,877 in 2001. Aura's (2008) study based on family courts in Bangalore shows that 1,392 cases were filed in 1999. Media reports mentioned in endnote 1 also use data from one or more family courts in the cities of Mumbai, Bangalore, or New Delhi.

12 Solanki's (2011: 122–123) reading of case files reveals the nature of misconduct alleged by husbands in contested cases to include refusal of sexual intercourse, disrespectful behaviour, unconcern toward children, negligence of cooking and household duties, being "too modern" and "fun loving," and frequent visits to the natal home. Women's allegations against husbands include alcoholism, physical violence, verbal abuse, failure to maintain the wife and children, gambling, and sexual indifference. Although adultery is often cited, the courts require "stringent proof" and it is difficult to obtain judgment on this ground. Singh (2013: chapter 3) also notes some of the same reasons as above.

13 Marital status by single year of age and sex is also available as an appendix table for some census years.

14 Notable among these are three rounds of National Family Health Surveys (the Indian version of Demographic and Health Surveys), two rounds of the Indian Human Development Survey, the District Level Household and Facility Survey, and National Sample Surveys.

15 Aura (2008) reviews many of these studies, in which the proportion of marriages ending in divorce or separation ranges from 1.5 percent in rural Karnataka to 6.5 percent in western Uttar Pradesh.

16 Women might not start living with their husband immediately after marriage, especially if the marriage occurred at a young age. But with increasing age at marriage, the practice of not living with the husband immediately after marriage is declining. Because the risk starts from the time of living with the husband, the analyses might miss dissolutions that occurred before the couple started to live together.

17 A comparison of AIC and SC statistics for unrestricted, linear, quadratic, and log form of duration suggested that the quadratic form best fits the model.

18 IHDS interviewed about 40,000 households and collected information from ever-married women on current marital status, number of previous marriages, and status of first marriage. However, it does not have information on duration of marriage for marriages that ended in divorce, separation, or widowhood. IHDS data are available from ICPSR: http: //doi.org/10.3886/ICPSR22626.v8.

19 Unadjusted models include marital duration in addition to the variable of interest.

20 The amendment lapsed following the dissolution of Parliament in 2014. The new government under the Hindu-Nationalist BJP has said that it will not consider the bill until it has examined the "grave and far reaching legal, social and economic implications" of the amendment, including whether it will lead to an increase in non-marriage and "illegitimate and live-in relations", and decline in family values (reply of D. V. Sadananda Gowda, Minister of Law and Justice, to Starred Parliament Question 373 in the Lok Sabha, 18 December 2014).